

Kingsport studio location. That department also provides local news to the Marion stations.

There are forty radio stations assigned to communities in the Tri-Cities Radio Market and one additional area station, which is assigned by Arbitron as “home” to that market.

Holston’s is one of three radio ownership “clusters” in the market. It is Holston’s belief that the only dedicated radio news departments in the Tri-Cities radio market are the three news departments operated by the three cluster owners. Holston’s radio news department has a staff of three persons and has won numerous awards from the Tennessee Associated Press Broadcasters Association in each of the past several years. It produces numerous local newscasts and public affairs programs each week for Holston’s various stations and the station on which Holston brokers broadcast time.

Holston has owned its original AM station and its original FM station, both licensed to Kingsport, since 1966.

One of the two additional AM stations licensed to Holston in the Tri-Cities market was acquired in 1989. When Holston first began providing programming to that station, the station had been simulcasting a co-owned FM station licensed in another county 100% of the time thus adding no diversity to the programming available to listeners in the AM’s service area. When Holston acquired that AM station its nighttime transmitter was inoperable, and its nighttime directional array was out of specification. Holston promptly restored the nighttime service to its licensed parameters and has since acquired a new transmitter for the station, the only station licensed to its community of license.

The third AM station Holston owns in the Tri-City market was already on its sixth owner and had been in bankruptcy at least once when Holston acquired it. Holston has now owned the station for some twelve years.

The FM station Holston operates under a time brokerage agreement has been operated by Holston since the station first signed on eleven years ago.

Main Studio Location & Manning Issues

Holston strongly opposes the proposal to require a station's main studio to be located within its community of license. The present specification that the main studio be within the local coverage area or no further than 25 miles from the community of license allows licensees the flexibility to combine staffing so as to make it possible to afford local news departments such as Holston's as described above.

Staffing a studio/office at multiple separate locations in the same radio market in this age of instant communication via phone, cell phone, facsimile, e-mail, and texting, is not only wastefully duplicative, but invariably the funds required to maintain those duplicative staffs would have to be taken away from other facets of the licensee's operation. In Holston's case staffing would be required at five locations (Bristol, Colonial Heights, Jonesborough, Kingsport, and Marion) versus the current two locations (Kingsport and Marion).

In order to survive economically, stations must have sales and traffic departments, basic programming personnel, and management. They do not have to have multi-person news and public affairs departments. Almost assuredly it would be from the latter departments that funds would have to be taken to staff additional main studio locations only a few miles from the present consolidated studio location.

Licensees such as Holston were not the operators who prevailed upon the Commission to open up both the FM and AM radio broadcast bands to thousands of more stations in the last third of the twentieth century. Those who did advocate a vast expansion in the number of stations succeeded in their quest, which was touted as being the route to providing a great increase in program format diversity in markets large and small. The programming diversity was indeed achieved.

Naturally, licensees such as Holston did their best to survive by expanding to form station clusters wherever possible. Listeners throughout the areas of the Commission's regulatory jurisdiction now enjoy this much increased diversity of free over-the-air programming; however, as the Commission ultimately realized, that diversity could only be achieved with a relaxation of its multiple ownership and main studio location and manning rules.

Hundreds of key financial decisions to purchase and/or expand broadcast stations have been made based on the current main studio rules. Returning to an archaic policy, which was abandoned many years ago, would be disruptive not only for individual stations but for the industry as a whole.

Similarly absurd is the contention that a station's studio must again be manned during all hours when the station is on the air. The undersigned has been working in broadcasting stations for over forty-six and a half years. From first hand experience this author can unequivocally state that modern automatic transmitter control systems monitor transmitter operations and correct out of parameter conditions much more quickly and accurately than most of the disc jockey transmitter operators of the distant past. Moreover, modern automatic Emergency Alerting System (EAS) gear is more

likely to accurately relay important emergency information to listeners than the antiquated Conelrad and Emergency Broadcast System (EBS) regimens of the past, which required human intervention.

The author well remembers the days when fulltime stations routinely signed off the air as early as 10:00 PM, because licensees could not afford to staff them into the late night and overnight hours. Thanks to automated programming and transmitter control systems and a greatly expanded number of radio networks, countless hours of additional programming are now available to listeners in communities throughout the states, district, commonwealth, protectorates, and territories within the Commission's jurisdiction.

A radio station operating in an automated mode with EAS equipment in place can and will instantly relay an emergency alert message received at 11 PM or 3 AM. A radio station, which was signed off for the day at 10 PM or at midnight respectively, because its licensee could not afford to keep a yawning warm body at the switch all night long, will not relay those messages.

Ascertainment of Local Problems & Needs

Holston and this author also vividly recall the many hours required in the days when a "form over substance" philosophy required a complex and rigid procedure by which licensees supposedly ascertained the problems and needs of the communities to which the stations of which they were licensees. Responsible broadcast licensees serve their communities by providing local news and public affairs programming and in the course of preparing that programming and serving as leaders in their respective communities of license they learn the nature of those problems and needs.

Holston does not advocate that a totally absentee licensee be allowed to operate in an automated vacuum with no local management and no local community contact. In Holston's view reasonable requirements in this regard will not violate the constitutional rights of licensees; however, such proposals as those to require formation of so-called community advisory boards are invasive, intrusive, and violate free speech assurances confirmed by the Bill of Rights of the U.S. Constitution.

There is no way to compel community leaders to serve on such boards, and it is unrealistic to expect community leaders, who are typically taxed with a multiplicity of volunteer efforts already, will be able to find the time to serve on a dozen or more of such boards. (Remember, there are 41 stations just in the relatively small Tri-Cities, TN/VA, market.)

**Existing Deregulation is Even More
Appropriate Today Than When It Was Implemented**

The rationale under which the United States Supreme Court has validated the Commission's regulation of the broadcast industry is "scarcity" of frequencies (i.e., there are more people who wish to broadcast than there are available frequencies to accommodate them). *See e.g. Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 637-38 (1994).

Broadcasting was "de-regulated" in mid-1981 by actions of both Congress and the Commission. At that time Congress extended the terms of radio station licenses from three to seven years, and the Commission did away with such things as mandatory program logs and what were in effect mandated minimum percentages of news, public affairs and other non-entertainment programs, and instituted the "postcard renewal" form.

According to the 50th Anniversary Issue of Broadcasting magazine, October 12, 1981, its “For the Record” section (p. 110) reported that as of August 31, 1981 there were 4,617 licensed AM stations, 3 AM stations operating on special temporary authorization (STA), and 130 un-built AM construction permits, for a total of 4,750 authorized AM stations. That same issue also reported that as of August 31, 1981 there were 3,328 licensed FM stations, 2 FM stations operating pursuant to STA, and 185 un-built FM construction permits, for a total of 3,515 authorized FM stations. As of that same day, August 31, 1981, there were 1,110 licensed non-commercial educational FM stations and 65 un-built construction permits for such stations, for a total of 1,175 authorized non-commercial educational FM stations. Thus, as of August 31, 1981, there were a total of 9,440 authorized broadcast radio stations across all 50 states.

During the 1980s, the Commission caused a marked increase in the number of FM stations through its implementation of Docket 80-90, and also increased opportunities for new AM stations through its “breaking down” of the clear channels and through its implementation of the so-called expanded band.

The Commission's web-site reports that, as of December, 2007, there are now 4,776 AM radio stations, 6,309 FM commercial radio stations (an whopping increase of 79.4%), and 2,892 FM educational radio stations (an even bigger increase of 146.1%), for a total of 13,977 radio stations — 48.1% more stations by the end of 2008 than existed at the time of deregulation in 1977. Furthermore, according to the search facility on the Commission's web-site, there are 66 AM original construction permit applications "accepted for filing" and awaiting grant and 378 commercial and non-commercial FM original construction permit applications "accepted for filing" and awaiting grant.

Due to new technologies, which were not available in 1981, the "scarcity" argument has been even further weakened. XM Satellite Radio commenced operations on September 25, 2001, and Sirius Satellite Radio commenced operations on July 1, 2002. XM reported that, as of the end of 2007, it had slightly more than 9,000,000 subscribers; and Sirius reported that, at the same time, it had approximately 8,300,000 subscribers.

More recently, in band/on channel (IBOC aka "HD Radio") technology has been employed by a growing number of radio stations, allowing one transmitter to send a number of signals to the listening public, and digital television technology allows similar "multicasting" by television stations. Additionally, according to a March 21, 2006, Wall Street Journal article there are at least 30,000,000 radio listeners in the United States, who listen to non-broadcast radio stations streamed over the internet.. That article reports that media giants like America Online stream some 200 channels over the internet. Furthermore, anybody who wants to do so can set up an "internet radio station" without any government approval.

Therefore, it seems wholly unwarranted to re-regulate the broadcast industry, with all of the attendant paperwork, regulatory oversight, and threats of fines and/or license revocation should a licensee not adhere to the “new/old rules.” What’s more, given the current state of the nation’s economy, it is absolutely imprudent to impose a costly regulatory regime on the broadcast industry, when the emerging technologies, which threaten traditional radio and television won’t face the same regulations.

“AM on FM” Translators

As it has previously demonstrated by its actions and its filings in various Commission proceedings, Holston is strongly in favor of allowing FM translators to relay the programming of AM radio broadcast stations. By and large, AM stations are those, which have broadcast the greatest number of hours of local news and public affairs programming. Such is the case with Holston’s stations as well, and Holston has secured special temporary authority (STA’s) for carriage of three of its AM stations on co-owned FM translators.


TV versus Radio Issues

While Holston’s Comments have been primarily directed to the radio side of the broadcast industry, it is also the licensee of one full power TV station and a number of low power and class A TV facilities in the tri-Cities, TN/VA area. All comments set forth above with respect to radio generally apply to TV as well, especially in the kind of small market situation in which Holston finds itself.

Pursuant to Section 1.52 of the Commission's Rules the undersigned hereby verifies the foregoing Comments as true and correct; has read the Comments; and that to the best of his knowledge, information, and belief there are good grounds to support them; and that these Comments are not interposed for delay.

Respectfully submitted,

**HOLSTON VALLEY BROADCASTING
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